
From: Porter, Ford C [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B78085A114554C8BA8F58BFFAF3E6DB0-FCPORTER]
Sent: 1/31/2018 6:10:38 PM
To: Murawski, John [jmurawski@newsobserver.com]
Subject: RE: Media Query

John,

The amount of the fund was reached in negotiations, not through a formula. The fund can be used for mitigation, renewable energy projects, extending distribution lines for natural gas, and other economic development projects. It is not stipulated how much of the fund must be used in one area. Regarding legal challenges to other funds, the NC Constitution refers to fines, penalties, and forfeitures. Those sanctions are not an issue in this matter.

Thanks,

Ford

From: Murawski, John [<mailto:jmurawski@newsobserver.com>]
Sent: Wednesday, January 31, 2018 2:51 PM
To: Governor's Press Office <govpress@nc.gov>
Subject: [External] Media Query

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I'm planning to write about the mitigation fund that's part of the Atlantic Coast Pipeline approval.

Would you be able to help out with questions?

1. Why is the total \$57.8 million? The specificity -- down to a decimal point -- suggests the total is based on a formula or calculation, not a rounded figure.
2. Half the money is set aside for mitigation. If the ACP doesn't cause any damage, would the mitigation money go unspent. Or will it be spent on the assumption that the project will necessarily have some impacts?
3. Can provide examples of how the mitigation, economic development and renewables funds could or might be spent?
4. The state has had litigation in the past over the status of such discretionary funds with regard to Article IX, Sec. 7 of the NC Constitution, which requires penalties/fines/forfeitures to be used exclusively for public schools. The courts have declared such payments to be penalties even if they were not designated as such by the parties themselves. There's a pending case now brought by Civitas Institute against Roy Cooper (and now Josh Stein) over the 2000 Smithfield Agreement (case was dismissed by Wake Co Superior Court Judge Paul Ridgeway in Oct. 2017, and has been subsequently appealed). Can you tell me how the ACP mitigation fund is different from other environmental funds, most of which have been declared unconstitutional?

Let me know if you can assist today -- I'm on daily deadline.

I look forward to hearing from you.

John Murawski
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